

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 13

STATE HISTORIC PRESERVATION DIVISION RULES

CHAPTER 277

RULES GOVERNING REQUIREMENTS FOR ARCHAEOLOGICAL SITE

PRESERVATION AND DEVELOPMENT

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§13-277-1 Policy and purpose. This chapter provides standards for preservation approaches to ensure proper preservation and a "no adverse effect" in the public's interest. [Eff: _____] (Auth: HRS §§6E-1, 6E-3, 6E-7, 6E-8, 6E-42) (Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13-277-2 Definitions. As used in this chapter unless the context requires otherwise:

"Agency" means any state or county governmental entity.

"Consultation process" means notifying interested organizations and individuals that a project could affect historic properties of interest to them; seeking their views on the identification, significance evaluations, and mitigation treatment of these properties; and considering their views in a good faith and appropriate manner during the review process.

"Cultural significance" means a historic property is of value to an ethnic group in the State due to associations with cultural practices once carried out, or still carried out, at the property or due to associations with traditional beliefs, events or oral accounts--these associations being important to the group's history and cultural identity.

"Historic property" means any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old.

"Mitigation" means the measures taken to minimize impacts to significant historic properties. Mitigation may take different forms, including, but not limited to, preservation, archaeological data recovery, reburial, ethnographic data recovery, historic data recovery, and architectural recordation.

"Person" means any individual, firm, association, agency, organization, partnership, estate, trust, corporation, company, or governmental unit that is proposing a project.

"Preservation" means the mitigation form in which a historic property is preserved.

"Project" means any activity directly undertaken by the State or its political subdivisions or supported in whole or in part through appropriations, contracts, grants, subsidies, loans, or other forms of funding assistance from the State or its political subdivisions or involving any lease, permit, license, certificate, land use change, or other entitlement for use issued by the State or its political subdivisions.

"Project area" means the area the proposed project may potentially affect, either directly or indirectly. It includes not only the area where the project will take place, but also the proposed project's area of potential effect.

"Significant historic property" means any historic property that meets the criteria of the Hawaii register of historic places or a criterion of traditional cultural significance.

"State historic preservation division" or "SHPD" means the state historic preservation division within the state department of land and natural resources. [Eff:] (Auth: HRS §§ 6E-2, 6E-3, 6E-7, 6E-8, 6E-42) (Imp: HRS §§ 6E-1, 6E-3, 6E-7, 6E-8, 6E-42)

§13-277-3 Preservation plan. A preservation plan prepared pursuant to chapter 13-275 or 13-284, shall:

- (1) Identify for each significant historic property whether preservation will take the form of avoidance and protection (conservation) or exhibition (interpretation);
- (2) Specify the buffer zones around each significant historic property;
- (3) Specify short-term protection measures for each significant historic property that will be within or near a construction area;
- (4) Discuss the agency or person's consultation process, for properties with traditional cultural significance. The agency or person shall consult with ethnic organizations and individuals for whom the historic properties are of cultural significance. The thoughts on preservation treatment expressed by these individuals or organizations shall be considered when preparing the preservation plan. The plan shall include a list of individuals and organizations contacted, and shall summarize their input.
- (5) Specify the long term preservation measures to be undertaken at each significant historic property. This may be done with drawings or text, or both. [Eff:] (Auth: HRS §§6E-1, 6E-3, 6E-7, 6E-8, 6E-42) (Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13-277-4 Buffer zones. (a) Buffer zones shall ensure that the integrity and context of setting around the historic property is preserved, in many cases including the visual integrity.

(b) The size of buffer zones needs to be determined by the person or agency and the SHPD on a site-by-site basis. Size will vary with the local terrain, eventual use of the site, surrounding land uses, the type of site, and

the criterion for which a site is significant. For example, a site significant solely for its information content may have a much smaller buffer zone than a site significant as an excellent example of a site type, or a heiau may have a much larger buffer zone than a house site.

(c) Buffer zones shall be marked on overall project maps, and physical markers shall be placed in the ground delineating the buffers.

[Eff: _____] (Auth: HRS §§6E-1, 6E-3, 6E-7, 6E-8; 6E-42)
(Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13-277-5 Short-term protection measures. These measures shall protect the significant historic property and its buffer zone during construction activities. They may include:

- (1) Flagging the perimeter of the buffer zone;
- (2) Erecting barriers (such as plastic fencing) along the buffer zone;
- (3) Placing avoidance instructions on construction specifications;
- (4) On-site briefing of the hired construction firm; and
- (5) Having an archaeologist on-site during ground alteration activities. [Eff: _____] (Auth: HRS §§6E-1, 6E-3, 6E-7, 6E-8, 6E-42) (Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13-277-6 Long term preservation measures. Long term preservation measures shall follow the appropriate Secretary of the Interior's Standards for Historic Preservation Projects. The preservation plan shall address the following long term preservation measures:

- (1) Maintenance measures to be followed;
- (2) Methods for clearing vegetation;
- (3) The manner in which litter is handled;
- (4) Access to the site and possible use of the site for cultural practices, if appropriate; and
- (5) Approaches to interpret and inform the public about the site. [Eff: _____] (Auth: HRS §§6E-1, 6E-3, 6E-7, 6E-8, 6E-42) (Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13-277-7 Exhibition requirements. (a) When using interpretive text for signs, brochures, etc., the text shall be reviewed and approved by SHPD to insure historical accuracy based upon current knowledge.

(b) Interpretive signs shall be:

- (1) Of sufficient quality to enhance interpretation;
- (2) Culturally sensitive; and
- (3) Located so as not to adversely affect the site visually.

(c) Archaeological research to improve the interpretation of the site may be undertaken, and shall meet the standards set forth in chapter 13-278. [Eff:] (Auth: HRS §§6E-1, 6E-3, 6E-7, 6E-8, 6E-42)
(Imp: HRS §§6E-3, 6E-7, 6E-8, 6E-42)

§13-277-8 Penalty. Non-compliance with the provisions and procedures established by this chapter shall result in a directive to the person not to proceed with construction in the project area, shall result in a denial or revocation of SHPD's written concurrence or agreement, and shall also be penalized as provided in section 6E-11, HRS, SHPD rules chapters 13-275, 13-278, 13-281, 13-282, 13-284 and applicable laws. [Eff:]
(Auth: HRS §§6E-3, 6E-8, 6E-42) (Imp: HRS §§6E-1, 6E-3, 6E-8, 6E-42)